

In re) Fair Hearing No. 16,301
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Appeal of)
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The petitioner appeals the decision by the Department of Social Welfare finding her liable for an overpayment of ANFC benefits due to her receipt of lump sum income. The issue is whether additional portions of the lump sum should have been excluded because it was used to pay expenses beyond the control of the recipient.

1. The petitioner was receiving ANFC when, on November 17, 1999, she received \$10,672 as a lump sum workman's compensation claim.

2. Within the next few weeks the petitioner provided the Department with a list of items on which she had spent virtually all the money and asked that the total be excluded from consideration in reducing her ANFC. The Department reviewed the list and determined that the purchase of a reliable used car and the payment of overdue taxes and utility bills could be counted for a total exclusion of \$6,630.¹

¹ At the hearing the Department also agreed to consider an additional quarterly property tax payment of \$445 if the petitioner could verify that it was overdue at the time she paid it.

3. Based on the \$4,042 remaining from the lump sum the Department notified the petitioner that she had been overpaid \$2,232 in ANFC for November and December, 1999, and part of January, 2000.

4. The petitioner appealed that decision. At the hearing (held on March 29, 2000) she brought in a list of expenditures made from the lump sum that she maintains should also be excluded. Those expenditures include the following:

- a. \$200 for two months of long distance phone calls. (The Department allowed the petitioner \$67.46 for her overdue basic monthly charges and \$5.00 a month in overdue long distance charges.)
- b. \$35 for a used computer for her daughter.
- c. \$500 to repay a friend for a personal loan she had obtained to repair a car she owned previously to the one she bought (and the Department excluded) from her lump sum.
- d. \$350 to repay other personal loans from friends they had made to her for other bills and taxes.
- e. \$50 for an overdue veterinarian bill.
- f. \$300 for Christmas presents.
- g. \$250 for winter clothes for her children.
- h. \$2000 paid in advance for property taxes for the period December, 1999 through February, 2001.

5. The Department has refused to deduct any of the above expenditures in that they cannot be considered

"substantially similar" to any items listed in the regulations (see infra).

ORDER

The decision of the Department is affirmed.

REASONS

The Department's regulations require that lump sum payments be counted as income for ANFC purposes unless they are excluded under an enumerated exception. WAM 2250.1. The regulation further requires that:

Lump sum payments which are not excluded should be added together with all other non-ANFC income received by the assistance group during the month. When the total less applicable disregards exceeds the standard of need for that family, the family will be ineligible for ANFC for the number of full months derived by dividing this total income by the need standard applicable to the family. Any remaining income will be applied to the first month of eligibility after the disqualification period.

Workers' Compensation benefits are included under the ANFC regulations as generally countable income. See 2250 et seq. In this case the Department followed the procedure set out in the regulation by including the lump-sum benefit as income, evaluating the claim for exclusions, and determining the petitioner's period of disqualification based upon the remainder. Because the petitioner had already received her ANFC for the months for which she was subsequently

determined ineligible, this created an overpayment subject to recoupment. WAM ə 2234.2.

The only issue in this matter is whether the Department came to the proper conclusion with regard to the amount of the lump sum to exclude based upon expenditures the petitioner presented to it. To this end, WAM ə 2250.1 includes the following provisions:

The Board has previously held that payments of ongoing or future household expenses (as opposed to "overdue" expenses) do not constitute money "unavailable to the family for circumstances beyond its control". It has also held that repayments of personal unsecured loans from friends and relatives do not fall in this category. Fair Hearing No. 10,451.

In this case it must also be concluded that an overdue veterinarian bill is not "substantially similar" to those expenses listed under section 2(g) of the above regulation, all of which constitute expenses essential to maintain a home or employment. Similarly, absent a showing otherwise, it cannot be concluded that overdue long distance telephone charges in excess of \$5.00 per month constituted a household necessity.

Inasmuch as it has not been shown that any of the additional expenditures made by the petitioner either meet or are substantially similar to those listed in the above regulation, the Department's decision in this matter is affirmed.

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